

Order

Michigan Supreme Court
Lansing, Michigan

January 26, 2007

131326 & (18)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

LAWRENCE K. YAHNE,
Defendant-Appellant.

Clifford W. Taylor,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

SC: 131326
COA: 267933
Kent CC: 01-005384-FH

By order of September 27, 2006, the prosecuting attorney was directed to answer the application for leave to appeal the April 7, 2006 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the sentence for the second count charging the defendant with second-degree criminal sexual conduct. The prosecution dismissed one count of second-degree criminal sexual conduct at the preliminary examination, and the defendant entered a plea of *nolo contendere* to a single count of second-degree criminal sexual conduct as a third-felony offender. The trial court therefore erred in imposing a sentence for the second count of second-degree criminal sexual conduct. We REMAND this case to the Kent Circuit Court, which may, in its discretion, decide whether resentencing is necessary. In all other respects, leave to appeal is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 26, 2007

Corbin R. Davis

Clerk